

10/014,838
REMARKS

Line 1 on page 1 has been updated to reflect that this application is a continuation of the previous parent application and the claim of benefit from the provisional patent application.

Claims 1-8 have been rejected as anticipated by a newly cited British patent publication to Kimpton. Needless to say, it is highly distressing to have Kimpton now cited after the parent application and the continuation application have been examined and a successful appeal prosecuted. At least five experienced examiners (the primary examiner, the supervisory examiner and the three members of the Board of Appeals) have clearly given serious consideration to this invention by applicant prior to now discovering Kimpton. Nevertheless, reconsideration is respectfully requested in view of the new claim 9 and following comments.

Claims 1-8 have been cancelled in view of Kimpton. Kimpton, while clearly more pertinent than the previously cited patents, does not disclose certain features alleged to be shown by the examiner.

Firstly, the sole figure in Kimpton does not show a scale beginning or ending with a (zero) measurement location for the bottle interior bottom as prescribed in applicant's new claim 9 (or in applicant's previous claims 1 and 5). Secondly, the examiner states at the top of page 3, that Kimpton discloses dissimilar shaped edges and describes them in the abstract and page 1, lines 69 to 78. A careful reading of the Kimpton abstract and lines 69 to 78 shows that Kimpton is speaking to different scales on opposite sides of the Kimpton tool to

measure the same bottle right side up or upside down. At the end of the abstract and in lines 80 to 84, Kimpton discloses separate tools for different shaped bottles. Nowhere in Kimpton does Kimpton disclose or suggest that both edges of one tool have curved dissimilar profiles or shapes. Applicant's previous claims 2 and 6 specified that the two edges be of dissimilar shapes, and new claim 9 specifies that the dissimilar edge shapes be curved to make absolutely clear that Kimpton does not disclose or suggest applicant's claim 9.